

REMARKS

This is in response to the Office Action dated December 7, 2004, and the references cited therewith.

Claims 6, 9, 16, and 19 are amended, claims 7, 8, 17, and 18 are canceled. As a result, claims 1, 3-6, 9-11, 13-16, and 19-20 are now pending in this application.

§102 Rejection of the Claims

Claims 1, 3-11 and 13-20 were rejected under 35 USC § 102(b) as being clearly anticipated by van Krieken et al. (U.S. Patent No. 5,782,887). The rejection is traversed and reconsideration is respectfully requested.

As best understood, van Kreiken discloses a pacemaker in which ventricular pacing in an atrial tracking mode is continued even after a PAC if the ventricular pace would in that case be delivered after the preceding T wave by a sufficient safety margin. Not taught or suggested by reference, however, is a method or device for delivering ventricular paces after PAC for the purpose of preventing atrial fibrillation.

In order for a claim to be properly rejected as being anticipated by a reference under section 102, the reference must disclose each and every element of the claim. Claims 1 and 11 recite a device and method, respectively, in which a ventricular pace is delivered *only* when a premature atrial contraction is detected, wherein the ventricular pace is delivered at a specified AV interval following the premature atrial contraction. The van Kreiken reference only discusses a pacemaker operating in an atrial tracking mode where, after certain PAC's, an ventricular pace is *not* delivered. Applicant finds no teaching or suggestion in the reference for the device and method as recited by claims 1 and 11, nor for the elements recited by claims 3-5 and 13-15 depending therefrom.

Regarding claims 5 and 15, the office action states that "the PVARP extension provides the safety delay per claim 5." Applicant does not see how the concept of the well-known and commonly used PVARP (post-ventricular atrial refractory period) is relevant to the device and method recited by claims 5 and 15. Firstly, a PVARP is only applicable in an atrial tracking mode where it acts to blind the atrial sensing channel for a short period of time following a

ventricular pace or sense. Its primary purpose is to prevent pacemaker-mediated tachycardia triggered by a premature ventricular contraction (PVC). Claims 5 and 15, however, explicitly recite a device and method where no ventricular pacing in an atrial tracking mode is taking place. Secondly, extending the PVARP means that it is less likely that a PAC will be detected at all since the atrial sensing channel is rendered refractory for a longer period of time. It is with this problem that the van Kreiken deals with. Not detecting a PAC because of a lengthened PVARP would not seem to have anything to do with constraining the length of an AV interval following a PAC so that the ventricular pace is delivered after a specified minimum interval from the previous ventricular sense or ventricular pace as recited by claims 5 and 15.

Claims 6 and 16 have been amended herein so as to incorporate the limitations formerly recited by claims 8 and 18, respectively. No teaching or suggestion appears in the van Kreiken reference for shortening the AV delay interval after a PAC in an atrial tracking mode. Applicant believes that the recitations of claims 6 and 16, and the recitations of claims 9-10 and 19-20 depending therefrom, patentably distinguish over the prior art of record.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of March, 2005.

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